

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:
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PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Applicant's or agent's file reference 014756/288289		Date of mailing (day/month/year) 28 SEP 2005 FOR FURTHER ACTION See paragraph 2 below
International application No. PCT/US05/00515	International filing date (day/month/year) 07 January 2005 (07.01.2005)	Priority date (day/month/year) 08 January 2004 (08.01.2004)
International Patent Classification (IPC) or both national classification and IPC IPC(7): A61F 11/00 and US CL: 606/108		
Applicant ALVEOLUS INC.		

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability, citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Authorized officer Victor Nguyen Telephone No. (703) 305-0858
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Form PCT/ISA/237 (cover sheet) (January 2004)

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/US05/00515

Box No. 1 Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐ a sequence listing

☐ table(s) related to the sequence listing

b. format of material

☐ in written format

☐ in computer readable form

c. time of filing/furnishing

☐ contained in international application as filed.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

Form PCT/ISA/237(Box No. 1) (January 2004)

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITYInternational application No.
PCT/US05/00515

Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>NONE</u>	YES
	Claims <u>1-30</u>	NO
Inventive step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-30</u>	NO
Industrial applicability (IA)	Claims <u>1-30</u>	YES
	Claims <u>NONE</u>	NO

2. Citations and explanations:

Claims 1-24 lack novelty under PCT Article 33 (2) as being anticipated by Derus et al (US 2002/0183827).

As shown in figures 5-9 and columns 5-6 disclose a stent delivery device having all the limitations as recited in the above listed claims including a stabilizing member (66), a longitudinally extending outer tubular member (38), a longitudinally extending inner tubular member (40), where the inner tubular member couples with the stabilizing member and at least a portion of the inner tubular member disposes within the outer tubular member, where the device further has a release member (68) for moving the outer tubular member relative to the inner tubular member, and where the device further has a second release member (72) operably connects to the first release member for moving the first release member and the outer tubular member in a direction toward the stabilizing member, where the device further comprises a safety member (56) for preventing movement of the release member and the outer tubular member toward the stabilizing member.

Claims 25-30 lacks novelty under PCT Article 33 (2) as being anticipated by Bachmann et al (US 5,759,186).

As shown in figures 1-2, 5 and columns 4-6 disclose a stent delivery device having all the limitations as recited in the above listed claims including a stabilizing member (39), a longitudinally extending outer tubular member (11), a longitudinally extending inner tubular member (9), where the inner tubular member couples with the stabilizing member and at least a portion of the inner tubular member disposes within the outer tubular member, where the device further has a release member (41) for moving the outer tubular member relative to the inner tubular member, and where the device further has a second release member (42) operably connects to the first release member for moving the first release member and the outer tubular member in a direction toward the stabilizing member, where the device further comprises a safety member (51) for preventing movement of the release member and the outer tubular member toward the stabilizing member.

Claims 1-30 meet the criteria set out in PCT Article 33 (4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.

Form PCT/ISA/237 (Box No. V) (January 2004)